

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN-CHRISTOPHE LIEBESKIND, et al.,

No. C-07-3962 MMC

Plaintiffs,

v.

ALLIANCE TITLE CO.,

Defendant

**ORDER DENYING EX PARTE  
APPLICATION FOR ORDER  
SHORTENING TIME TO HEAR  
PLAINTIFFS' MOTION FOR LEAVE TO  
AMEND; VACATING HEARING ON  
CROSS-COMPLAINANT'S MOTION FOR  
DISCHARGE OR SUMMARY JUDGMENT**

ALLIANCE TITLE CO.,

Cross-complainant,

v.

JEAN-CHRISTOPHE LIEBESKIND, et al.,

Cross-defendants

Before the Court is plaintiffs' "Ex Parte Application for an Order Shortening Time to Hear Plaintiff's Motion for Leave to Amend Their Pleadings," filed December 30, 2007. Defendant/Cross-complainant Alliance Title Company ("Alliance") has filed opposition, to which plaintiffs have replied. Having read and considered the papers submitted in support of and in opposition to the application,<sup>1</sup> the Court rules as follows.

<sup>1</sup>The Court construes the application as a motion to shorten time, pursuant to Civil Local Rule 6-3. The Court did not rule on the instant application upon its filing, as had been requested by plaintiffs, because no "statute, Federal Rule, local rule, or Standing Order authorizes the filing of an ex parte motion" to shorten time to hear a noticed motion. See Civil L.R. 7-10 (setting forth limited circumstances in which matter may be heard on "ex parte" basis).

1 On December 30, 2007, plaintiffs filed a motion for leave to amend their complaint  
2 against Alliance and to amend their answer to Alliance's cross-complaint; said motion, in  
3 accordance with the Civil Local Rules of this District, is noticed for a February 8, 2008  
4 hearing. Earlier, on December 21, 2007, Alliance filed a motion for summary judgment in  
5 its favor on all claims brought against it by plaintiffs and on all claims it has brought against  
6 plaintiffs, including a claim for attorney fees, and noticed said motion for hearing on  
7 January 25, 2008. Plaintiffs seek an order shortening time for the hearing of their motion,  
8 to allow their motion to be heard either before or at the same time as Alliance's motion.

9 To ensure a reasonably orderly procedure and to avoid the need for supplemental  
10 briefing, the pleadings must be settled before the Court determines whether summary  
11 judgment is appropriate. Consequently, the Court will hear plaintiffs' motion to amend  
12 before it hears Alliance's dispositive motion. In light of Alliance's concern that it needs the  
13 usual amount of time to prepare a response to the motion to amend,<sup>2</sup> however, the Court  
14 will not hear plaintiffs' motion to amend on shortened time.

15 Accordingly, plaintiffs' application for an order shortening is hereby DENIED, and  
16 said motion remains as scheduled for hearing on February 8, 2008. The January 25, 2008  
17 hearing on Alliance's motion for discharge and/or summary judgment is hereby VACATED,  
18 and may be renoticed for hearing, or refiled as amended, after the Court has ruled on  
19 plaintiffs' motion to amend.

20 **IT IS SO ORDERED.**

21  
22 Dated: January 11, 2008

  
MAXINE M. CHESNEY  
United States District Judge

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27 <sup>2</sup>Any response to the motion to amend is due no later than January 18, 2008. See  
28 Civil L. R. 7-3(a) (providing opposition to motion must be filed no later than 21 days before  
hearing date).